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Convention on the Rights of Persons with Disabilities

General
23 March 2018

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Committee on the Rights of Persons with Disabilities

List of issues prior to submission of the combined second and third periodic reports of New Zealand*

A. Purpose and general obligations (arts. 1–4)

1. Please indicate any significant progress concerning legal reform to bring all legislation into compliance with the Convention, as well as public policy measures taken to implement the Convention.

2. Please provide information on how the State party is coordinating and facilitating action under the New Zealand Disability Strategy 2016–2026 and other measures for implementing the Convention, including the level of resources allocated to such strategies, the mechanisms responsible for their implementation, the outcomes achieved and the process for evaluating and monitoring their impact.

3. Please indicate whether the State party has consulted with persons with disabilities through their representative organizations about the reform of disability policies.

4. Please clarify whether the State party, in partnership with persons with disabilities through their representative organizations, has established mechanisms and financial resources to ensure their full and effective participation in the implementation and monitoring of the Convention, particularly concerning persons with disabilities facing multiple and intersectional forms of discrimination.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

5. Please provide information about:

(a) Measures taken to ensure that the anti-discrimination framework in the State party encompasses all forms of discrimination on the basis of disability, including the denial of reasonable accommodation, discrimination by association and multiple and intersectional discrimination faced by children, women, migrants, refugees, asylum seekers, Māori and Pacific and lesbian, gay, bisexual, transgender and intersex persons with disabilities;

(b) Statistics on the number and percentage of claims of discrimination on the basis of disability, disaggregated by sex, age, barriers identified and the sector in which discrimination occurred, and on available remedies and redress, including compensation;

(c) Progress made to introduce the explicit definition of reasonable accommodation into the Human Rights Act 1993 in conformity with the definition in article

* Adopted by the Committee at its nineteenth session (14 February–9 March 2018).

2 of the Convention, which encompasses reasonable accommodation in all spheres of life to all persons with disabilities, irrespective of impairment, and about measures adopted to ensure that reasonable accommodation is provided in public and private sectors;

(d) Measures taken to review the eligibility criteria of its Funded Family Care Policy and amend Part 4A of the New Zealand Public Health and Disability Act 2000 to ensure that all family members who are carers are paid on the same basis as other carers, and are entitled to make complaints of discrimination in respect of the State party's family care policy. Please also report about assessments carried out by the State party concerning the implementation of the Funded Family Care Policy and its impact on the rights of persons with disabilities;

(e) Specific programmes aimed to reduce socioeconomic disadvantage of Māori and Pacific persons with disabilities. Please indicate which measures have been taken to deal with the underlying causes of poverty among Māori and Pacific persons with disabilities;

(f) Measures taken to ensure that all persons with psychosocial and/or intellectual disabilities are identified, supported and accommodated, in particular in the context of education and health.

Women with disabilities (art. 6)

6. Please provide information about:

(a) Measures taken to mainstream a gender perspective in its disability legislation and policy and to mainstream a disability rights perspective into gender legislation and policy;

(b) Intersectional and multiple forms of discrimination against women with disabilities in all areas of life;

(c) Measures taken to prevent, recognize and address all forms of gender-based violence against women with disabilities, including in institutions and in-home situations, and with respect to the exercise of their sexual and reproductive health rights. Please indicate the resources allocated and any further information on steps taken to support women with disabilities who experience or are at risk of violence, including sexual abuse;

(d) Strategies to ensure that women with disabilities participate in decision-making bodies and have access to education, health, employment and social protection measures. Please indicate how many representative organizations of women and girls with disabilities, including Māori and Pacific women with disabilities, are involved in these programmes.

Children with disabilities (art. 7)

7. Please provide information about:

(a) Measures taken to ensure that the opinions, voices and views of all children with disabilities are given due weight in accordance with their age and maturity, on the decision-making processes that affect them;

(b) Strategies to promote and protect the rights of children with disabilities, by incorporating the Convention into legislation, policies, programmes, service standards, operational procedures and compliance frameworks that apply to children in general;

(c) Measures taken by the Ministry for Vulnerable Children and across all sectors to ensure that children with disabilities and their families receive appropriate support, including under the care and protection systems, and have access to community-based services;

(d) Measures taken to prevent abuse in State care institutions, respond to complaints and provide redress for victims of historic abuse in State care institutions, following the conclusions and recommendations in the Judge Henwood report (2015) and the Donald Beasley Institute report (2017). Please also inform the Committee about

criminal investigations carried out in relation to allegations of ill-treatment and torture in care institutions, including health-care facilities;

(e) Measures taken to prevent children with disabilities from being placed in potentially abusive foster care situations, through mandatory vetting procedures of foster families.

Awareness-raising (art. 8)

8. Please provide information on:

(a) Measures targeted at public and private actors undertaken to combat stigma, stereotypes, prejudices, negative attitudes, bullying, hate crime, hate speech and discriminatory language against persons with disabilities, in all spheres of life, including cyberspace;

(b) Involvement of the media in awareness-raising strategies, including campaigns;

(c) Measures taken to promote and sustain a greater understanding that the life of persons with disabilities is of equal value to that of others, and to eradicate and prevent attempts to disseminate ideas that life as a person with disabilities is "not worth living".

Accessibility (art. 9)

9. Please provide information about:

(a) Measures taken to ensure that all public buildings are made fully accessible and that such buildings are independently audited and verified;

(b) Progress in the implementation of the Building Act 2004 and Building Code for all factories and industrial premises, including those where fewer than 10 people are employed, which are currently exempted under the Act and the Code;

(c) Measures taken for the provision of universal access to safe, inclusive, and accessible, green and public spaces for persons with disabilities in line with Goal 11.7 of the Sustainable Development Goals, and considering particular barriers faced by women, children and older persons with disabilities;

(d) Steps to ensure that the wide application of the concept of universal design is endorsed by authorities at all levels of public service provision;

(e) The number of wheelchair-accessible buses and taxis;

(f) Measures taken to ensure that electronic ticketing systems for public transport and journey/travel/timetable information is accessible.

Situations of risk and humanitarian emergencies (art. 11)

10. Please provide information on measures taken to ensure that disaster risk reduction plan and strategies explicitly provide for accessibility and inclusion of persons with disabilities, in all situations of risk, in line with the Sendai Framework for Disaster Risk Reduction 2015–2030.

Equal recognition before the law (art. 12)

11. Please provide information about:

(a) Measures taken to revise the relevant laws on supported decision-making, that respect the person's autonomy, will and preferences, and in full conformity with article 12 of the Convention, including with respect to the individual's right, in his or her own capacity, to give and withdraw informed consent, consistent with the Committee's general comment No. 1 (2014) on equal recognition before the law;

(b) Measures taken to ensure that responsive and tailored supports are available and affordable to all persons with disabilities to exercise their legal capacity and to manage

their financial affairs, particularly for persons with psychosocial and/or intellectual disabilities;

(c) The number of guardianships, interdictions or curatorships issued and the number of persons with disabilities who have regained legal capacity since the ratification of the Convention.

Access to justice (art. 13)

12. Please provide information about:

(a) Measures taken to review the processes for assessing compensation by the Accident Compensation Corporation to ensure that adequate legal aid is available and the processes are fully accessible to all claimants, and to ensure that the mechanism has a human rights-based approach;

(b) Measures taken by tribunals to adopt a responsive and flexible approach to the admission of evidence, and to provide free legal aid to ensure full access to judicial remedies, particularly by persons with disabilities with scarce economic resources and those that are still institutionalized;

(c) Steps taken to collect data related to the prevalence of young people with psychosocial and/or intellectual disabilities in the juvenile justice system. Please also indicate how the data are reflected in practice;

(d) Measures taken to conduct training programmes on the Convention by the Institute of Judicial Studies, in cooperation with organizations of persons with disabilities, and on the rights of persons with disabilities who come before the State party's courts and tribunals.

Liberty and security of the person (art. 14)

13. Please provide information about:

(a) Measures taken to ensure that all mental health services are provided on the basis of the free and informed consent of the person concerned, in accordance with the Convention;

(b) Steps taken to bring the Mental Health (Compulsory Assessment and Treatment) Act 1992 into line with the Convention, and to prevent arbitrary deprivation of liberty on the basis of impairment and presumed dangerousness to themselves or others, including the assumed risk of suicide and/or substance addiction;

(c) Legal remedies available for persons with disabilities to request the assessment of the legality of their deprivation of liberty, and measures taken to promote the deinstitutionalization of persons with disabilities who have been unlawfully deprived of their liberty;

(d) The results of the review of the criminal justice systems, and measures taken to ensure that criminal procedures respect all the safeguards and guarantees that are applicable to non-disabled persons, including that deprivation of liberty should be applied as a matter of last resort.

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

14. Please inform the Committee about:

(a) Legal measures taken to eliminate the use of seclusion, restraints, detention, night safety orders, tie-down beds and non-consensual treatment, in particular in medical facilities;

(b) Statistics, data and evidence on the mental health of persons with disabilities in prisons, explaining how the evidence is used for treatment and the planning, and the measures taken by the Ministry of Health and the Corrections Service concerning mental health services in prisons;

(c) Measures taken to monitor homes, residential facilities and any place where persons with disabilities could be deprived of their liberty, and statistics disaggregated by age, sex and other relevant factors on investigations of ill-treatment and/or torture as well as compensations, reparation and rehabilitation for victims;

(d) Measures taken to require the New Zealand Education Review Office to specifically report, as part of the regular review process, on whether or not seclusion and isolation is practised in individual schools;

(e) Measures taken to enforce the amendment to the Education Act 1999 passed in 2017, prohibiting the physical restraint and seclusion of children with disabilities in schools, and measures concerning awareness-raising strategies, including campaigns among teachers and staff working with children with disabilities, in relation to such legislation, and concerning the provision of information in accessible formats to children with disabilities on the scope of the new provisions.

Freedom from exploitation, violence and abuse (art. 16)

15. Please provide information about:

(a) Measures taken to ensure and strengthen freedom from exploitation, harm, violence and abuse, including systemic and historic abuse, for all persons with disabilities in all settings, with particular attention to those with psychosocial and/or intellectual disabilities, and women with disabilities, including through the establishment of accessible oversight, complaint and redress mechanisms;

(b) Measures taken to ensure that legislation, policy and practice relating to domestic violence cover persons with disabilities at risk of violence, exploitation and/or abuse;

(c) Measures taken to provide appropriate counselling for persons with disabilities, particularly those with psychosocial and/or intellectual disabilities, who have been exposed to violence or abuse in institutional and/or other settings.

Protecting the integrity of the person (art. 17)

16. Please provide information on:

(a) Measures taken to enact legislation prohibiting and preventing the practice of non-consensual treatments on persons with disabilities, including forced sterilization, genital mutilation and conversion surgeries of intersex persons, with particular attention to children with disabilities;

(b) The practice of Ashley Treatment or growth attenuation procedures in the State party, as well as current legal and policy framework of such treatments.

Liberty of movement and nationality (art. 18)

17. Please provide information about:

(a) Measures taken to reduce the denial of residency in New Zealand on the grounds of impairment, appeals against such decisions and successful or unsuccessful decisions in the past five years;

(b) Measures taken and planned to reduce discrimination against persons with disabilities on the elements of immigration policy and its procedures.

Living independently and being included in the community (art. 19)

18. Please provide information about:

(a) Measures taken and resources invested to extend the coverage of the independent living model and the Enabling Goods Lives programme to ensure that all persons with disabilities live independently and are included in the community;

(b) Measures taken to consult with representative organizations of persons with disabilities, including organizations of persons with psychosocial and/or intellectual

disabilities, about the impacts of the deinstitutionalization strategy on ensuring their inclusion in the community;

(c) Measures taken to support and resources invested in living independently and being included in the community, including through personal assistants, peers and coaching, according to age, sex, and ethnic background;

(d) Strategies and resources allocated to ensure accessible housing for persons with disabilities that are affordable for all persons with disabilities, in all housing sectors, and legal requirements and duties of accessibility for private constructors in the development of housing projects;

(e) Strategies to enhance access to community services and periodic assessments concerning de facto accessibility by all persons with disabilities;

(f) The proportion of persons with disabilities whose subjective belief is that society is inclusive and responsive, and objective data disaggregated by sex, age, ethnicity, disability and any dimensions that enrich the understanding of diversity and the variety.

Personal mobility (art. 20)

19. Please provide information about:

(a) Measures taken to facilitate the personal mobility in all spheres of life of all persons with disabilities and their families, including the provision of reasonable accommodation and modification of the environments;

(b) Measures taken to secure persons with disabilities and their families have access to necessary personal mobility aids, devices and other assistive technologies, including regulations allowing public procurement as a tool to provide mobility;

(c) Measures taken to ensure equal access to the Accident Compensation Corporation to persons with disabilities in cases of impairment and injury, and measures taken to mainstream and simplify access to mobility devices by persons with disabilities at the local level and ensure a quality of life for all persons with disabilities, irrespective of the origin of impairment.

Freedom of expression and opinion, and access to information (art. 21)

20. Please indicate progress made on:

(a) Increasing the funding for the training and employment of sufficient numbers of sign language interpreters, and increasing the use of New Zealand sign language in all aspects of life, including educational and cultural activities;

(b) Funding allocation to ensure accessibility to information in all spheres for Māori and Pacific people with disabilities, especially those with hearing and visual impairments;

(c) Plans to make accessibility to information legally binding;

(d) Efforts to ensure that persons with disabilities have access to information via accessible modes, means and formats of information and communication, such as Braille, Easy-Read, audio description and captioning, including for television content, websites, apps, touch-screen devices and other digital products and services, according to their requirements and preferences, and to enable to express their opinion;

(e) Measures taken to ensure that legal entities that have not fully met the Web Accessibility Standards do so;

(f) Measures and strategies for adaptive procurement and investment for assistive technologies.

Respect for home and the family (art. 23)

21. Please provide information on:

(a) Measures adopted for re-examination of two statutes, the Children, Young Persons and Their Families Act 1989 and the Vulnerable Children Act 2014, to ensure that children with disabilities have the same safeguards as other children when they are placed in out-of-home care;

(b) Measures taken to repeal section 8 of the Adoption Act 1955 and to amend the statute, to ensure that persons with disabilities are treated on an equal basis with other applicants for adoption;

(c) Measures taken and any legal and policy requirements placed to ensure that doctors and other medical professionals provide full information to people who receive positive prenatal test results for disabilities, particularly Down's syndrome.

Education (art. 24)

22. Please provide information about measures taken to:

(a) Establish the enforceable right to inclusive education;

(b) Ensure that the principles of inclusive education are built into all levels of the education system, from the legislation to the training of teachers, to on-the-job support and guidance, to work planning and budgeting for the school year by school boards, and to operationalize them;

(c) Increase funding to ensure full accessibility, the provision of reasonable accommodation, modifications and support for inclusive education in primary and secondary education, including teacher training programmes, including with respect to psychosocial and/or intellectual disabilities of children at all levels of education;

(d) Increase the accessibility of tertiary education facilities and courses, and the levels of entry into tertiary education for all persons with disabilities, particularly those persons with psychosocial and/or intellectual disabilities;

(e) Implement anti-bullying programmes and give redress to those children affected by bullying;

(f) Eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for persons with disabilities and multiple and intersectional forms of vulnerability, such as Māori and Pacific peoples, and children in vulnerable situations, in compliance with Goal 4.5 of the Sustainable Development Goals.

Health (art. 25)

23. Please provide information on:

(a) Measures taken to ensure access to full health care for all persons with disabilities, including persons with disabilities whose disabilities are a result of health conditions that require specialist services;

(b) Measures taken to enhance the health outcomes of Māori and Pacific peoples with disabilities, among whom the prevalence of disability is higher because of poverty and disadvantages;

(c) Steps taken to include people with dementia and other cognitive losses among its health priorities.

Habilitation and rehabilitation (art. 26)

24. Please provide information on measures taken to ensure that habilitation and rehabilitation services for persons with disabilities are based on the human rights model of disability, including by ensuring the services are:

(a) Designed and implemented to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability and full inclusion and participation in all aspects of life;

(b) Provided to persons with disabilities on the basis of their free, prior and informed consent.

Work and employment (art. 27)

25. Please provide information on:

(a) Measures taken to increase the employment levels of persons with disabilities and reduce employment discrimination against them, especially for women with disabilities, Māori and Pacific persons with disabilities, including data disaggregated by age, sex and ethnicity;

(b) Efforts to remove sheltered workshops and the minimum wage exemption permits for the employment of persons with disabilities;

(c) Statistical data with comparability on an annual basis and on the status of the persons, with or without disabilities, on unemployment, underemployment and multiple employment, as well as the people not currently involved in any form of education, employment or training, disaggregated by sex, age and ethnicity, urban or rural area, and family status, over the previous reporting period.

Adequate standard of living and social protection (art. 28)

26. Please provide information on:

(a) Data from the Housing New Zealand Corporation, Ministry of Social Development and other relevant sources of data as to: (i) the eligibility to apply for social housing; (ii) the average and median time for people requiring disability-related modified housing; (iii) the number and proportion of people requiring disability-related modified housing; (iv) the number of housing modification grants, and resources granted over the past five years with a breakdown for grants for owner-occupied homes and privately rented houses; and (v) the number and proportion of Housing New Zealand Corporation houses that have been built or modified for disability-related reasons since the previous dialogue with the Committee;

(b) How specific measures for persons with disabilities are mainstreamed in poverty and homelessness reduction strategies, with particular attention to women, children, indigenous persons with disabilities, and persons with psychosocial and/or intellectual disabilities, as well as the mainstreaming of those domains in disability policy.

Participation in political and public life (art. 29)

27. Please provide information on:

(a) All measures taken to introduce accessible electronic voting to enable persons with disabilities to cast their votes in a truly secret manner;

(b) Measures adopted for persons with disabilities to stand for elections, be elected and effectively hold office and perform public functions at all levels.

Participation in cultural life, recreation, leisure and sport (art. 30)

28. Please provide information on measures taken to enhance accessibility in sports facilities, museums, cultural and natural heritage and any place for the cultural life of persons with disabilities.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

29. Please provide information on:

(a) The preliminary analysis of data collected in the 2018 census concerning the situation of persons with disabilities, disaggregated by its multiple dimensions, including sex, age, ethnicity, disability and urban or rural area, and a comparison of their situation

with regard to the findings of and reports based on the 2013 disability survey, including summary statistics and data displays;

(b) The process towards the inclusion of disability-related questions in the context of the 2018 census, and the information on accessible formats provided to persons with disabilities in connection with the 2018 census;

(c) Progress towards data disaggregation for people with disabilities in the annual reports published by government departments, crown entities and local authorities;

(d) Measures taken to collect data and information about indigenous peoples with disabilities, as well as disaggregation, analysis and dissemination of the data;

(e) Mechanisms for the involvement of organizations of persons with disabilities in the design of measurement tools, particularly in the register of institutionalized persons and the register of persons in psychiatric hospitals.

International cooperation (art. 32)

30. Please provide information about the efforts surrounding and the impact on the disability-inclusive development policies and foreign aid programme, taken into consideration for the effective and comprehensive implementation of the Convention and Sustainable Development Goals.

National implementation and monitoring (art. 33)

31. Please indicate concrete cases and future plans that reflect the outcomes provided by the monitoring process, especially in the New Zealand Disability Strategy 2016–2026, and other measures for implementing the Convention.

32. Please provide information on:

(a) The mandate and human, financial and technical resources of the independent monitoring framework of the Convention, and the extent to which the Principles relating to the status of national institutions for the protection and promotion of human rights (the Paris Principles) have been taken into account;

(b) The results of the review by the monitoring mechanism, and how those results are reflected in practice, particularly in the planning and development of programmes;

(c) The funds allocated by the independent monitoring framework to facilitate the participation of all organizations of persons with disabilities in monitoring the Convention, and the mechanisms, methodologies and information accessible by organizations of persons with disabilities, including organizations of persons with intellectual disabilities;

(d) Any measures taken by the State party to implement and or amend legislation, policies and practices concerning the rights of persons with disabilities following the recommendations and/or findings of the independent monitoring framework.